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Authorizing Utah Code: <u>62a-5-103 (2) (g)</u>	Rule:	Division Staff
Issue date:	Revision date:	
Form(s): None		

I. Directive Purpose:

The purpose of this Directive is to establish rules governing the make-up and structure of the Division Human Rights Council (DHRC) as well as the procedures by which the DHRC operates. The mission of the DHRC is to promote and protect the rights of persons who receive services through the Division of Services for People with Disabilities (Division) according to the Division's governing statutes, rules, and mission statement. This Directive does not in any way attempt to establish administrative hearing rights beyond those already codified in statute or rule.

II. Definitions:

- A. "Present" for purposes of establishing a quorum includes physical presence in person at the location in which the meeting is being held, as well as participation telephonically from a remote location.

III. Policy:

- A. The Function of the DHRC shall be:
1. To review initial Provider Human Rights Plans for all new provider agencies;
 2. To hear appeals of Provider Human Rights Committee decisions and provide direction to remedy those situations as per Section R539-3-4(5);
 - a. The DHRC shall maintain and monitor an email, an active phone line, and a mail slot at the Division, through which to receive and respond to complaints regarding restrictions on the rights of persons in services, and aid interested persons in requesting an appeal through the DHRC.
 3. To report on any trends or concerns to the Disabilities Advisory Council. The DHRC shall report:
 - a. On trends biannually;
 - b. On concerns, as needed and as determined by the DHRC; or
 - c. As requested by the Disabilities Advisory Council or the Division Director.
 4. To develop training to address rights violations and concerns, as needed to the appropriate audience.
 - a. The DHRC shall, at minimum, conduct meetings biannually to discuss the need to develop trainings, in conjunction with preparing to report on trends to the Disabilities Advisory Council.
 5. To hold an annual public hearing to gather input regarding rights of persons in services, general concerns, necessary protections and improvements, and best practices from all interested members of the public, including persons in services and providers.
- B. Membership of the DHRC:
1. The DHRC shall be comprised of the following members:
 - a. A minimum of one member of the community with a background and experience in services to people with disabilities;

- b. A minimum of one person, at least 18 years of age, who currently receives services under a Medicaid Home and Community-Based Services Waiver (Waiver) through the Division;
 - c. A minimum of one family member of a person who currently receives Waiver services through the Division;
 - d. A minimum of one designated staff member from the Division;
 - e. A minimum of one representative from Adult Protective Services;
 - f. A minimum of one designated representative from the Department of Health.
 - 2. All DHRC Members shall possess some knowledge in the following areas:
 - a. Basic rights of persons receiving services through the Division;
 - b. Standards of informed consent;
 - c. Overview of developmental disabilities;
 - d. Positive behavior supports and non-aversive strategies; and
 - e. Principles of least restriction, normalization, reasonable accommodations and protection from harm.
- C. Meetings shall be held quarterly, or as needed.
- D. Appeal Process:
 - 1. Standard Practice:
 - a. An interested party may request an appeal of a Provider Human Rights Committee decision by requesting involvement of DHRC to the Division via email, phone, in person, or in writing.
 - b. In accordance with R539-3-4(5), The DHRC shall notify all appropriate parties of its decision to hear the case, within eight (8) business days of receiving the request for an appeal.
 - i. The notification shall contain a statement of the issue to be reviewed, the process by which all appeals are reviewed, and a date upon which the appeal shall be held.
 - c. The DHRC shall prioritize appeals according to the severity of the issue to be reviewed.
 - d. A standard appeal shall be heard no less than five (5) business days and no more than three (3) months from the date of the written request.
 - e. The decision by the DHRC following the appeal shall be issued no later than ten (10) business days after the appeal review is concluded.
 - 2. Emergency Situations:
 - a. The DHRC shall have the authority, in its discretion to determine that a certain situation or practice reported, if true, rises to the level of an emergency situation, and immediately suspend the practice in question, pending an appeal.
 - b. If the DHRC determines an emergency situation exists:
 - i. It shall immediately notify all appropriate parties of its decision to hear the case upon suspending the practice in question;
 - ii. An appeal shall be heard no less than three (3) business days and no more than fifteen (15) business days from the date of the request; and
 - iii. The decision by the DHRC following the appeal shall be issued no later than five (5) business days after the appeal review is concluded.
 - c. If DHRC determines the situation is not an emergency, the interested person who requested the appeal shall be instructed to submit a request in accordance with the Standard Practice laid out in Subsection (D)(1)

above.

3. Procedure for Appeal:

- a. The interested party requesting the appeal or a designated representative presenting information on behalf of the person in services, as well as the provider or a representative presenting information on behalf of the provider, shall be permitted to comment on the issues in turn.
 - i. The DHRC will be permitted to ask any questions of the parties necessary for clarifying any information provided, as well as to request commentary from other subject matter experts as deemed necessary by the DHRC.
- b. The setting shall be informal, and is not an adjudicative proceeding as prescribed by rule or statute.